

FE-STATE ☒

FE-LOCAL ✓

RET _____

TAX _____

LAKEBED _____

1993 ASSEMBLY BILL _____

48

LRB _____

AN ACT relating to funding the rebuilding of private road crossings.

Introduced by Representative BRANDENMUEHL
(PRINCIPAL AUTHOR)

Cosponsored by Senator SCHULTZ

(BY REQUEST OF)

(CONTINUE HERE FOR ADDITIONAL REPRESENTATIVES)

FREEZE

GARD

SKINDRUD

OWENS

AINSWORTH

SERATTI

BOLLE

(CONTINUE HERE FOR ADDITIONAL SENATO



DAVID BRANDEMUEHL

State Representative
49th Assembly District

MEMO

DATE: November 16, 1993
TO: All Legislators
FROM: Rep. David Brandemuehl
RE: LRB 4887/3, relating to funding the rebuilding of private road crossings

*Rep. Ainsworth Rep. OWENS
Rep. Gard Sen. Schultz
Rep. Freeze Rep. Stendrud
Rep. Spratt Rep. Bolle*

I am introducing legislation which requires the Department of Transportation (DOT) to fund the rebuilding of any private rail road crossing where a line rehabilitation occurs, retroactive to 1992-93 fiscal year.

The DOT has been reluctant to fund rebuilding of private rail road crossings despite a 1908 Wisconsin Supreme Court decision. The decision held that the right to a "farm crossing" under this section of statutes is not limited to adjoining lands used solely for agricultural purposes, but extends to such crossings that are necessary to enable owners of adjoining land to reach and work their properties.

Currently, highway rehabilitation projects require DOT to fund the rebuilding of private property access roads. This bill extends that provision and requires DOT to pay for a private road crossing when a rail line is rehabilitated.

The analysis by the LRB is printed below. If you would like to co-sponsor the bill, please contact my office at 6-1170 by December 10, 1993.

Analysis by the Legislative Reference Bureau

This bill requires the department of transportation (DOT) to fund the rebuilding of any private road crossing across the tracks of a rail transit commission if the tracks were rehabilitated during the 1992-93 fiscal year or thereafter, the crossing has not been rebuilt since the tracks were rehabilitated and the private road crossing user obtains a permit from the applicable rail transit commission. The bill also requires DOT to reimburse any private road crossing user for costs incurred by the user for the rebuilding of a private road crossing across the tracks of a rail transit commission if the tracks were rehabilitated during the 1992-93 fiscal year or thereafter and the user obtains a permit from the applicable rail transit commission. Permits must require the applicable rail transit commission to maintain, repair and renew the private road crossing at the user's sole expense.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

November 16, 1992

Mr. Thomas Walker, Executive Assistant
Wisconsin Department of Transportation
4802 Sheboygan Avenue
Madison, WI 53702

Dear Mr. Walker:

In reference to our previous conversations regarding the railroad crossing on the James Frazier property in Blue River, I would like to make a few additional comments.

On Friday November 6th, the Rail Commission voted unanimously to pay for the crossings. The benefits of new crossings are far-reaching. If you were to rehabilitate every eligible crossing, it would be a drop in the bucket compared to the millions of state dollars going into rehabilitation of the line.

Mr. Frazier received his permit in 1988. Although his contract states that he may be charged for the project, he is not required to pay for it. If you are fearful of setting a precedent, there may not be a single situation statewide regarding a railroad crossing problem similar to Mr. Frazier's. Whether it is a business or a property owner, there should be equal access.

The decision to fund the project is a small investment that will go a long way toward improving public relations for the Department of Transportation in southwestern Wisconsin. After all, you certainly don't want to have the same reputation the DNR has with landowners in the Lower Wisconsin Riverway.

Thank you for your time and consideration. If you have any comments or questions, please feel free to contact me.

Sincerely,

David A. Brandemuehl
State Representative
49th Assembly District

cc: Governor Tommy Thompson
Secretary Charles Thompson, DOT
James Frazier

1993 SENATE BILL 688

February 1, 1994 - Introduced by Senator SCHULTZ; cosponsored by Representative BRANDEMUEHL. Referred to Committee on Transportation, Agriculture, Local and Rural Affairs.

- 1 AN ACT to amend 20.395 (2) (bu); to repeal and recreate 20.395 (2) (bu);
2 and to create 85.085 of the statutes, relating to funding the
3 rebuilding of private road crossings.

Analysis by the Legislative Reference Bureau

This bill requires the department of transportation (DOT) to fund the rebuilding of any private road crossing across the tracks of a rail transit commission if the tracks were rehabilitated during the 1992-93 fiscal year or thereafter, the crossing has not been rebuilt since the tracks were rehabilitated and the private road crossing user obtains a permit from the applicable rail transit commission. The bill also requires DOT to reimburse any private road crossing user for costs incurred by the user for the rebuilding of a private road crossing across the tracks of a rail transit commission if the tracks were rehabilitated during the 1992-93 fiscal year or thereafter and the user obtains a permit from the applicable rail transit commission. Permits must require the applicable rail transit commission to maintain, repair and renew the private road crossing at the user's sole expense.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly,
do enact as follows:

- 4 SECTION 1. 20.395 (2) (bu) of the statutes, as created by 1993
5 Wisconsin Act 16, is amended to read:
6 20.395 (2) (bu) Freight rail infrastructure improvements, state
7 funds. As a continuing appropriation, the amounts in the schedule for

1 loans under s. 85.08 (4m) (e) and to make payments under s. 85.085 and
2 1993 Wisconsin Act 16, section 9154 (4n).

3 SECTION 2. 20.395 (2) (bu) of the statutes, as affected by 1993
4 Wisconsin Act 16, section 338g, and 1993 Wisconsin Act (this act), is
5 repealed and recreated to read:

6 20.395 (2) (bu) Freight rail infrastructure improvements, state
7 funds. As a continuing appropriation, the amounts in the schedule for
8 loans under s. 85.08 (4m) (e) and to make payments under s. 85.085.

9 SECTION 3. 85.085 of the statutes is created to read:

10 85.085 PRIVATE ROAD CROSSINGS. (1) The department shall make pay-
11 ments from the appropriation under s. 20.395 (2) (bu) to fund the
12 rebuilding of any private road crossing across the tracks of a rail tran-
13 sit commission within this state if the applicable tracks of the rail
14 transit commission were rehabilitated during the 1992-93 fiscal year or
15 thereafter, the private road crossing has not been rebuilt since the
16 tracks were rehabilitated and the private road crossing user obtains a
17 private road crossing permit from the applicable rail transit commission.

18 (2) The department shall make payments from the appropriation under
19 s. 20.395 (2) (bu) to reimburse any private road crossing user for costs
20 incurred by the user in financing the rebuilding of a private road cross-
21 ing across the tracks of a rail transit commission within this state if
22 the applicable tracks of the rail transit commission were rehabilitated
23 during the 1992-93 fiscal year or thereafter and the private road crossing
24 user has obtained a private road crossing permit from the applicable rail
25 transit commission.

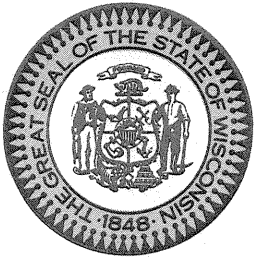
26 (3) The department shall not make any payment under this section
27 unless the applicable private road crossing permit provides that the rail

1 transit commission shall, at the user's sole cost and expense, maintain,
2 repair and renew the private road crossing.

3 SECTION 4. EFFECTIVE DATES. This act takes effect on the day after
4 publication, except as follows:

5 (1) The repeal and recreation of section 20.395 (2) (bu) of the
6 statutes takes effect on July 1, 1994.

7 (End)



DAVID BRANDEMUEHL

State Representative
49th Assembly District

MEMO

DATE: November 16, 1993
TO: All Legislators
FROM: Rep. David Brandemuehl *DB*
RE: LRB 4887/3, relating to funding the rebuilding of private road crossings

I am introducing legislation which requires the Department of Transportation (DOT) to fund the rebuilding of any private rail road crossing where a line rehabilitation occurs, retroactive to 1992-93 fiscal year.

The DOT has been reluctant to fund rebuilding of private rail road crossings despite a 1908 Wisconsin Supreme Court decision. The decision held that the right to a "farm crossing" under this section of statutes is not limited to adjoining lands used solely for agricultural purposes, but extends to such crossings that are necessary to enable owners of adjoining land to reach and work their properties.

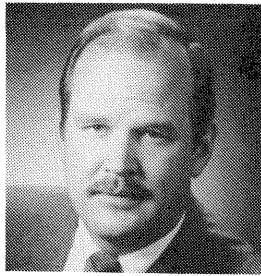
Currently, highway rehabilitation projects require DOT to fund the rebuilding of private property access roads. This bill extends that provision and requires DOT to pay for a private road crossing when a rail line is rehabilitated.

The analysis by the LRB is printed below. If you would like to co-sponsor the bill, please contact my office at 6-1170 by December 10, 1993.

Analysis by the Legislative Reference Bureau

This bill requires the department of transportation (DOT) to fund the rebuilding of any private road crossing across the tracks of a rail transit commission if the tracks were rehabilitated during the 1992-93 fiscal year or thereafter, the crossing has not been rebuilt since the tracks were rehabilitated and the private road crossing user obtains a permit from the applicable rail transit commission. The bill also requires DOT to reimburse any private road crossing user for costs incurred by the user for the rebuilding of a private road crossing across the tracks of a rail transit commission if the tracks were rehabilitated during the 1992-93 fiscal year or thereafter and the user obtains a permit from the applicable rail transit commission. Permits must require the applicable rail transit commission to maintain, repair and renew the private road crossing at the user's sole expense.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.



DALE W. SCHULTZ
Wisconsin State Senator



Date: February 23, 1994

To: Senate Committee on Transportation, Agriculture, Local and Rural Affairs

From: Senator Schultz *[Signature]*

Re: Senate Bill 688 - Private Road Crossings

Chairman Lasee, members of the committee, thank you for the opportunity to speak in favor of Senate Bill 688.

This bill requires the Department of Transportation to fund rebuilding any private road crossing across the tracks of a rail transit commission if the tracks were rehabilitated during the 1992-93 fiscal year or thereafter.

The DOT has been reluctant to fund private crossing reconstruction despite a 1908 Wisconsin Supreme Court decision which held that the right to a "farm crossing" is not limited to adjoining lands used solely for agricultural purposes. The decision noted that farm crossing extend to such crossings that are necessary to enable owners of adjoining land to reach and work their properties.

Current highway rehabilitation projects require DOT to rebuilding of private property access roads. With this bill, that program would be expanded to require payment for private rail crossings.

Extending this funding to private rail crossings is a matter of fairness. I urge you to approve this legislation.

Thank you again for your consideration.

FISCAL ESTIMATE

DOA-2048 (R10/92)

☐ ORIGINAL
☐ CORRECTED☐ UPDATED
☐ SUPPLEMENTAL**Subject**

Rebuilding Private Railroad Crossings

Fiscal EffectState: ☐ No State Fiscal EffectCheck columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation☒ Increase Costs - May be possible to Absorb
Within Agency's Budget ☐ Yes ☐ No☐ Increase Existing Appropriation ☐ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation☐ Decrease CostsLocal: ☐ No local government costs1. ☒ Increase Costs
☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs
☐ Permissive ☐ Mandatory3. ☐ Increase Revenues
☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenues
☐ Permissive ☐ Mandatory

5. Types of Local Governmental Units Affected:

☐ Towns ☐ Villages ☐ Cities
☒ Counties ☐ Others
☐ School Districts ☐ VTAE Districts**Fund Sources Affected**☐ GPR ☐ FED ☐ PRO ☐ PRS ☒ SEG ☐ SEG-S**Affected Ch. 20 Appropriations**

395(20)(bu)

Assumptions Used in Arriving at Fiscal Estimate

The owners of private crossings of state-owned railroad tracks which were rebuilt during the rehabilitation of the railroad line during the 1992-1993 fiscal year would be reimbursed by the rehabilitation project for costs incurred.

The cost of rebuilding private crossings of state-owned railroad tracks during rehabilitation projects in the 1993-1994 fiscal year would be considered costs of the rehabilitation project.

All owners of affected private crossings would sign crossing agreements.

As costs of the rehabilitation project, costs could be shared by the state and local units of government.

The cost of rebuilding private crossings during the 1992-1993 fiscal year was \$14,527.34. This does not include the cost of one crossing rebuilt and subsequently removed when the owner refused to sign a crossing agreement.

There are not any private crossings scheduled to be rebuilt during the 1993-1994 fiscal year.

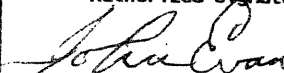
Long-Range Fiscal Implications

Additional funding could be required to prevent proration of payments if mileage is added in the future.

Agency/Prepared by: (Name & Phone No.)

Ron Adams, 608-267-9284
Department of Transportation

Authorized Signature/Telephone No.

 608-266-3048

Date

02/01/94

FISCAL ESTIMATE WORKSHEET**1994 SESSION**Detailed Estimate of Annual Fiscal Effect
DOA-2047(R10/92)☐ ORIGINAL
☒ CORRECTED☐ UPDATED
☐ SUPPLEMENTALLRB or Bill No./Adm. Rule No.
LRB 5183/1

Amendment No.

Subject

Rebuilding Private Railroad Crossings

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):.

II. Annualized Costs:

		Annualized Fiscal Impact on State funds from:	
A. State Costs by Category		Increased Costs	Decreased Costs
State Operations-Salaries and Fringes		\$ 0	\$ - 0
(FTE Position Changes)		(FTE)	(- FTE)
State Operations-Other Costs			-
Local Assistance		\$11,622	-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category		\$ 11,622	\$ - 0
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR		\$	\$ -
FED		\$	\$ -
PRO/PRS		\$	\$ -
SEG/SEG-S		\$	\$ -
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fees, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$ 0	\$ - 0

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 11,622	\$ 2,905
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency/Prepared by: (Name & Phone No.)
Department of Transportation
Ron Adams, 608-267-9284Authorized Signature/Telephone No.
John Evans 608-266-3048Date
02/01/94